

GOVERNING BODY

* PROCEDURAL INSTRUCTIONS *

RENEWAL OF INACTIVE LICENSES PURSUANT TO N.J.S.A. 33:1-12.39

2003-2004 LICENSE TERM

Please note that some licensees attempt to file their original Verified Petitions (and filing fees for same) with the Issuing Authority along with their Renewal Applications. It is the responsibility of the Licensee to mail their original Verified Petition and filing fee directly to this Division, and to provide you with a COPY of their Verified Petition.

Verified Petitions must not be attached to renewal applications when sent to our Licensing Bureau. Renewal Applications are handled by this Division's Licensing Bureau, while Verified Petitions are handled by the Counsel to the Director. Thank you.

The Division of Alcoholic Beverage Control is preparing for the renewal of retail licenses for the **2003-2004** license term. Any license which has been "inactive" (not open and operating) for two full license terms - **since on or before June 30, 2001** - may NOT BE RENEWED unless the Director issues a Special Ruling allowing the issuing authority to consider renewal. N.J.S.A. 33:1-12.39. Be advised that the issuing authority has no authority to renew the inactive license until a Special Ruling is received from the Director.

Attached to this letter is a list of the licenses located in your municipality in which the Division records indicate have been inactive for more than two full license terms (as of the printing date of this letter). These licenses require a Special Ruling prior to being renewed for the **2003-2004** license term. A license on the attached list must receive a Special Ruling pursuant to N.J.S.A. 33:1-12.39 for the **2003-2004** license term before it can be considered for renewal by the Governing Body. Then the renewal can only be issued upon receipt of a Special Ruling by the Director, a timely filed renewal application, fees, and Tax Clearance Certificate. **PLEASE NOTE that licensees who received multi-term relief (i.e., a Special Ruling granting relief for the 2002-2003 and 2003-2004 license terms), are not required to file a Verified Petition for the 2003-2004 license term. THESE LICENSES ARE NOT LISTED ON THE ATTACHED SHEET**, and may be considered for renewal according to the relief granted in the last Special Ruling issued. If your records reflect information that is different than the attached list, please contact the individuals noted at the end of this letter to correct any discrepancies.

The Director determines whether or not to issue a Special Ruling after reviewing a Verified Petition the licensee submits to this Division. The Petition must state the efforts made during the preceding license term to activate the license and what reasonable possibility there is for activation during the upcoming license term. Licensees are required to provide a copy of their petitions to you, so that if you wish, you can provide comments (either negative or positive) to the Division.

The Director has the authority to grant relief for more than one license term at a time. Therefore, licensees are encouraged and permitted to request relief for more than the **2003-2004** license term pursuant to N.J.S.A. 33:1-12.39.

Upon submission of a Verified Petition and a non-refundable filing fee of \$100 per license term, licensees may be able to receive one Special Ruling which grants them up to two (2) license terms of relief. Therefore, one Special Ruling could provide relief for multiple license terms and avoid licensee uncertainty about Special Rulings in the future. This policy allows licensees to more easily plan for the activation or transfer of the license, permits management of financial obligations, and reduces paperwork. The Director, upon request by a licensee and after a showing of good cause, will consider granting the following relief:

If the license became inactive BETWEEN July 1, 2000 and June 30, 2001, the Director will consider granting a Special Ruling granting two (2) years of relief.

If the license became inactive ON OR BEFORE June 30, 2000, the Director will consider issuing a Special Ruling granting one (1) year of relief.

The Special Ruling will authorize your governing body to consider renewal of the inactive license for the **2003-2004** term, and during future renewal periods you may consider any additional license terms stated in the Ruling. The local issuing authority may not renew the license for any future license terms at this time, even if the Special Ruling grants relief for future license terms. For example, if a Special Ruling grants relief for the 2003-2004 and 2004-2005 license terms, the issuing authority may consider the license for renewal for the 2003-2004 license term now, and consider the license for renewal for the 2004-2005 license term next year upon receipt of a timely filed, properly completed renewal application, fees, and Tax Clearance Certificate.

There is a \$100 filing fee charged by this Division for processing Verified Petitions for each license term requested. If a licensee requests multiple term relief, \$100 per term must accompany the Verified Petition. This fee is separate from the \$100 State fee which is submitted with the local renewal fee. The filing fee must be paid to the Division, by the licensee, either by personal check or money order. Do not send cash. **Payment should be made to the "New Jersey Division of ABC," and must be mailed with the Verified Petition by the licensee to this Division.** Any petitions received by fax or without payment will not be processed.

Please note the following instructions with respect to the renewal procedure for the licenses on the attached list:

1. **DO NOT REJECT** a license renewal application and renewal fee for an **inactive license** submitted on or before July 30, 2003 because a 12.39 Special Ruling has not yet been issued. See N.J.S.A. 33:1-12.13. **All timely filed applications (applications received by the issuing authority on or before July 30, 2003) and fees should be accepted and forwarded to the Division** in the same manner in which you process all license renewal applications and fees.
2. From July 31, 2003 until September 28, 2003, you may accept renewal applications and fees, however, a license may not be renewed by your governing body prior to receiving a Special Ruling pursuant to N.J.S.A. 33:1-12.18 from the Division. Please contact Michele Boyer, Deputy Attorney General at (609) 292-9301 to request an instructional letter which outlines the procedure to petition for relief pursuant to N.J.S.A. 33:1-12.18.

3. DO NOT approve a Resolution renewing a license which appears on the attached list until you receive a copy of the "12.39" Special Ruling authorizing its consideration for renewal.
4. ADVISE the licensee to file a Verified Petition with this Division (There is no "form" Verified Petition. Basically, the licensee must forward an affidavit to the Division). Advise licensees of the \$100 filing fee per license term requested required to accompany a Verified Petition. A copy of an instructional letter for licensees concerning the Petition process is enclosed. Please make copies of the instructional letter and give it to your inactive licensees. An additional copy will be sent directly to them by the Division. If a licensee claims they did not receive a copy of the instructional letter, you should advise them to contact the Division so that we may verify their mailing address.
5. If the licensee received a two (2) year "**fire/casualty**" ruling last year pursuant to N.J.S.A. 33:1-12.39 which authorized renewal for the 2002-2003 and 2003-2004 license terms, be sure to check that the licensee filing for renewal for the 2003-2004 license term is the same licensee that renewed last year. If the license has been transferred in the last year to someone other than the licensee who actually suffered the fire/casualty loss, then the new licensee must petition the Division pursuant to N.J.S.A. 33:1-12.39 before your local governing body can renew the license.
6. SPECIAL CONDITIONS
 - a) If the license was subject to a Special Condition requiring activation by June 30, 2003, imposed by a prior Special Ruling, DO give licensees their renewal application and information. However, make certain that the licensees know that unless they petition the Director, request that the Special Condition be vacated, and receive a written Special Ruling, their license will presumptively lapse and cease to exist for failure to activate as required by the prior Special Ruling. (Should the Division determine NOT to grant authorization, you will be so informed and advised to pass a Resolution which reflects that the license has lapsed for failure to activate as required by the Special Ruling, a copy of which must be submitted to the Division's Licensing Bureau.)
 - b) If the license was subject to a Special Condition requiring activation by June 30, 2003, imposed by a Consent Order signed by the licensee and this Division, or imposed by a Final Decision by the Director, DO give licensees their renewal application and inform them to contact this Division regarding the status of their license. These licensees should contact: Michele Boyer, Deputy Attorney General, at (609) 292-9301.

7. ADVISE THE DIVISION of any licenses which have been inactive for two or more full license terms, and are not on the attached list, due to:
 - 1). Licensee's failure to list the inactive date on license applications; or
 - 2). The Division's failure to capture inactive date stated on license application; or
 - 3). The license's short "activation" periods in which it attempts to avoid the requirements of N.J.S.A. 33:1-12.39. Unless a license is operated with the ability and intent to remain active in a regular and continuing fashion, it has not been activated and should be listed as inactive; or
 - 4). Any other information you may have regarding the inactive status of the license.
8. ADVISE all licensees who hold an inactive license that they are required by law to receive a Tax Clearance Certificate from the Division of Taxation prior to being renewed. If this presents a problem, advise licensees to **CALL THE DIVISION OF TAXATION AT (609) 633-6213**.
9. ADVISE THE DIVISION if a license on the attached list has become ACTIVE. **If a license has become active, and is open and operating**, please FAX [(609) 292-0691] AND MAIL the following to the attention of Sheila Inverso, Licensing Bureau:
 - 1). A copy of the amendment to the renewal application (pages 1, 2, and 11) completed, signed, and notarized by the licensee. Question 2.6A should be checked "YES," and the licensee should handwrite the date the license became active (the date the licensed premises opened) next to it. This shall reflect that the license is "active" and operating.

If you have any questions regarding the **procedure for filing Verified Petitions** for inactive licenses, please contact Michele Boyer, Deputy Attorney General, at (609) 292-9301.

If you have any questions regarding the **inactive status** of the licenses on the attached list, you may contact Sheila Inverso at (609) 984-1508.

c: Joann Frascella, Exec. Asst., Licensing
Sheila Inverso, Customer Service Rep.

ENC. - LICENSEE INSTRUCTIONAL LETTER & INACTIVE LICENSE LIST

(03/03) MB

